

## SENATE BILL No. 69

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-2-14.

**Synopsis:** Parental leave for school conferences. Requires the employer of a parent to provide paid leave to the parent for school conferences when the conferences cannot be scheduled during the employee's nonworking hours. Provides for enforcement by the commissioner of labor.

**Effective:** July 1, 2008.

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January 8, 2008, read first time and referred to Committee on Pensions and Labor.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## SENATE BILL No. 69

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 22-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

### **Chapter 14. Parental Leave for School Conferences**

#### **Sec. 1. As used in this chapter, "child" means an individual:**

##### **(1) who is:**

**(A) the biological child;**

**(B) the adopted child;**

**(C) the foster child;**

**(D) the stepchild; or**

**(E) the ward;**

**of an employee; and**

##### **(2) who is enrolled in a school in:**

**(A) Indiana; or**

**(B) a state that shares a common boundary with Indiana.**

**Sec. 2. As used in this chapter, "commissioner" refers to the commissioner of labor appointed under IC 22-1-1-2.**



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1       **Sec. 3. (a) As used in this chapter, "employee" means an**  
 2       **individual who:**

3               **(1) has been employed for at least twelve (12) months by an**  
 4               **employer from whom a leave is requested under this chapter;**  
 5               **and**

6               **(2) has worked an average number of hours per week equal to**  
 7               **at least seventy-five percent (75%) of a full-time equivalent**  
 8               **position as defined:**

9                       **(A) in a bona fide agreement between the employer and the**  
 10                      **employee;**

11                     **(B) by the employer's personnel policies or practices; or**

12                     **(C) in a negotiated collective bargaining agreement or**  
 13                     **settlement agreement.**

14       **(b) The term does not include an independent contractor.**

15       **Sec. 4. As used in this chapter, "employer" means:**

16               **(1) an individual;**

17               **(2) a partnership;**

18               **(3) an association;**

19               **(4) a limited liability company;**

20               **(5) a corporation;**

21               **(6) a business trust;**

22               **(7) the state;**

23               **(8) a municipal corporation (as defined in IC 36-1-2-10); or**

24               **(9) a nonprofit organization;**

25       **that employs at least twenty (20) employees for each working day**  
 26       **during each of twenty (20) or more calendar weeks in the current**  
 27       **or preceding calendar year.**

28       **Sec. 5. As used in this chapter, "school" means any of the**  
 29       **following:**

30               **(1) An elementary or a secondary school maintained by:**

31                       **(A) a public school corporation (as defined in**  
 32                      **IC 20-18-2-16); or**

33                      **(B) a charter school (as defined in IC 20-24-1-4).**

34               **(2) A nonpublic school (as defined in IC 20-18-2-12) that is**  
 35               **accredited under IC 20-19-2-8.**

36               **(3) A child care center (as defined in IC 12-7-2-28.4) that is**  
 37               **operated by a provider licensed under IC 12-17-2-4.**

38               **(4) A preschool organization offering a preschool program (as**  
 39               **defined in IC 20-20-28-3) that is not part of a public school**  
 40               **corporation or a nonpublic school.**

41               **(5) A preschool, an elementary school, or a high school**  
 42               **maintained by a state educational institution under IC 20-24.5**

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or another law.

(6) The following state institutions:

(A) Silvercrest Children's Development Center established by IC 16-33-3-2.

(B) The Indiana Soldiers' and Sailors' Children's Home established by IC 16-33-4-5.

(C) The Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1.

(D) The Indiana School for the Deaf established by IC 20-22-2-1.

(7) An entity that is located in a state described in section 1(2)(B) of this chapter and is similar to a school described in subdivisions (1) through (6).

**Sec. 6.** An employee is entitled to take paid leave totaling not more than twenty (20) hours in any twelve (12) month period to attend school conferences or other school activities directly related to the educational advancement of a child. However, an employee is entitled to take paid leave to attend a school conference or school activity under this section only if the conference or activity cannot be scheduled during the employee's nonwork hours.

**Sec. 7.** A leave described in section 6 of this chapter is subject to the following conditions:

(1) The employee and the employer shall make a reasonable effort to schedule the leave at a mutually convenient time so as not to unduly disrupt the employer's operations.

(2) The employer may require an employee to submit a written request for the leave at least seven (7) days before the time desired for the leave if the need for the leave is reasonably foreseeable. If the need for the leave is not reasonably foreseeable, the employee shall give as much notice as is practicable.

(3) Whenever both parents of a child are employees of the same employer at the same work site, the employee who first requests leave to attend a child's school activity is the employee entitled to the leave under section 6 of this chapter. The employer is required to grant a second employee's request for leave to attend the same school activity for the same child only if the second employee's leave can be scheduled so as not to unduly disrupt the employer's operations.

(4) The employer may require the employee to furnish a written verification from the child's school that the employee

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attended the conference or other activity at the school during the time of the leave. If an employer requires an employee to submit a verification, the employee:

(A) shall submit the verification not later than three (3) working days after the date of the school visitation; or

(B) if the employee does not comply with clause (A), is subject to the employer's standard discipline imposed for an unexcused absence from work.

Sec. 8. A notice in a form approved by the commissioner setting forth the rights of employees under this chapter must be:

(1) conspicuously and continuously posted by the employer in the area in which employees are routinely employed; or

(2) disseminated to the employees in a manner reasonably intended to give notice.

Sec. 9. A person may not discharge or otherwise discriminate against a person who does any of the following:

(1) Files a complaint, institutes a proceeding, or causes another person to file a complaint or institute a proceeding concerning the rights and duties arising under this chapter.

(2) Assists or intends to assist in an investigation or a proceeding concerning the rights and duties arising under this chapter.

(3) Testifies or intends to testify in an investigation or a proceeding concerning the rights and duties arising under this chapter.

Sec. 10. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 11. The commissioner shall enforce this chapter.

Sec. 12. (a) A person who is aggrieved by an alleged violation of this chapter may file a written complaint with the commissioner not later than thirty (30) days after the earlier of:

(1) the date that the person discovers the violation; or

(2) the date that the person should have discovered the violation.

(b) If a complaint is filed with the commissioner under subsection (a), the commissioner shall investigate the complaint and attempt to informally resolve the complaint.

(c) If a dispute is not informally resolved within one hundred twenty (120) days after the commissioner receives the complaint, the commissioner shall initiate a proceeding under IC 4-21.5-3-6 and adjudicate the complaint under IC 4-21.5-3. The commissioner shall join as parties to the proceeding the complainant and each

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1 person who is alleged to have committed a violation under this  
 2 chapter. Unless the parties to the proceeding agree to a later date  
 3 or the interests of justice require, the presiding officer in the  
 4 proceeding shall schedule a hearing on the complaint to be held not  
 5 later than one hundred eighty (180) days after the commissioner  
 6 receives the complaint.

7 **Sec. 13.** The commissioner may issue any reasonable order to  
 8 remedy a violation under this chapter. The order may include the  
 9 following:

10 (1) A requirement that the employee be reinstated in the  
 11 position that the employee held before taking the leave  
 12 described in this chapter or an equivalent position.

13 (2) A requirement that the employer reimburse the employee  
 14 for compensation and benefits lost as a result of the violation.

15 (3) A requirement that the employer pay the employee for  
 16 reasonable attorney's fees incurred to bring the complaint  
 17 and participate as a party in the informal and formal  
 18 proceedings under this chapter.

19 (4) A requirement that the employer pay a civil penalty to the  
 20 employee in an amount not to exceed one thousand dollars  
 21 (\$1,000).

22 **Sec. 14. (a)** This chapter does not prohibit an employee from  
 23 taking leave granted under any of the following:

24 (1) Another law.

25 (2) A bona fide agreement between the employee and  
 26 employer or a representative of the employee and the  
 27 employer.

28 (3) A policy of the employer.

29 **(b)** This chapter does not prohibit an employer from providing  
 30 school visitation benefits in addition to the requirements of this  
 31 chapter.

32 **SECTION 2.** [EFFECTIVE JULY 1, 2008] IC 22-2-14, as added  
 33 by this act, does not:

34 (1) excuse noncompliance with a provision of a collective  
 35 bargaining agreement or other employment benefit program  
 36 or plan in effect on July 1, 2008, that is not in substantial  
 37 conflict with IC 22-2-14, as added by this act; or

38 (2) justify an employer in reducing employment benefits  
 39 provided by the employer that exceed the benefits required by  
 40 IC 22-2-14, as added by this act.

41 **SECTION 3.** [EFFECTIVE JULY 1, 2008] (a) Notwithstanding  
 42 IC 22-2-14-10, as added by this act, the commissioner of labor shall

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1 carry out the duties imposed upon the commissioner under  
2 IC 22-2-14-10, as added by this act, under interim written  
3 guidelines approved by the commissioner of labor.

4 (b) This SECTION expires on the earlier of the following:

5 (1) The date rules are adopted under IC 22-2-14-10, as added  
6 by this act.

7 (2) December 31, 2009.

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